

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

U.S. BANK NATIONAL ASSOCIATION,

Plaintiff,

v.

EEL RIVER INVESTMENT COMPANY,
STERNE, AGEE & LEACH, INC., et al,

Defendants.

Case No. C4-5623RBL

ORDER GRANTING PLAINTIFF'S
MOTION FOR CONFIRMATION
REGARDING TRIAL PREPARATION
OF WITNESSES

The Court has reviewed Plaintiff's Motion for Confirmation Regarding Trial Preparation of Witnesses [Dkt. #448] and the response filed by SAL [Dkt. #455] and the Declaration of J. Michael Rediker in support of that response [Dkt. #456]. The Court does not require a reply from U.S. Bank nor does it require oral argument in order to rule on the issue at hand. The Court's Order regarding the exclusion of witnesses during trial is not intended to prevent lawyers from preparing witnesses for trial. This Court would be disappointed in skilled trial counsel if they were not communicating regularly with witnesses to alert them about subjects likely to be addressed at trial or to evaluate their testimony on relevant topics. Counsel for plaintiff and defendants are free to talk to Mr. Goetz whenever Mr. Goetz and his counsel are willing to talk. Neither counsel is required to prepare an affidavit providing a description of the contents of the conversation or what materials, if any, were reviewed. These conversations can include specific references to prior testimony given from 2006 to date.

1 The Court will order counsel for U.S. Bank to provide counsel for SAL by the close of business
2 December 29, 2008 copies of all letters, emails, memos, and evidence of the telephone calls, between U.S.
3 Bank or its counsel and Mr. Goetz, and/or his counsel, during the year 2008. Moreover, at the time trial
4 resumes on January 12, 2009, and thereafter, both parties will be allowed to fully cross-examine Mr. Goetz
5 on what representations have been made by the parties, what information has been shared by the parties,
6 and what Mr. Goetz has done independently in order to prepare for his trial testimony. Because of the
7 unique role played by Mr. Goetz in this trial, and because of the apparent shift in his position regarding
8 certain issues relevant to the central issues in the case, both parties will be able to ask leading questions of
9 Mr. Goetz during his trial testimony.

10 Dated this 23rd day of December, 2008.

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13 RONALD B. LEIGHTON
14 UNITED STATES DISTRICT JUDGE
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